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June 11, 2009

**VIA FACSIMILE – 914-390-4179**

Honorable Stephen C. Robinson  
United States District Court  
Southern District of New York  
United States Courthouse  
300 Quarropas Street, Room 633  
White Plains, New York 10601-4150

**MEMO ENDORSE**

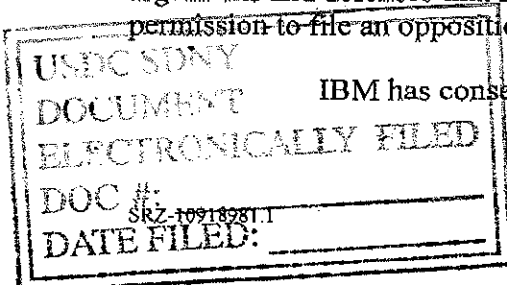
Re: International Business Machines Corporation v. Johnson, Case No. 09-CIV-4826 (SCR)

Dear Judge Robinson:

We are co-counsel along with Morgan, Lewis & Bockius LLP for the defendant, David Johnson, in the referenced action. On June 1, 2009, International Business Machines Corporation ("IBM") moved by order to show cause for a preliminary injunction and temporary restraining order to prevent Mr. Johnson, who was formerly employed by IBM, from working for Dell, Inc. based on an alleged non-competition agreement. Following a hearing that same day before Judge Karas, on June 4, 2009, Judge Karas signed an order to show cause setting forth, *inter alia*, an expedited briefing schedule for the parties to submit opposition and reply papers with respect to IBM's motion for a preliminary injunction. Mr. Johnson's opposition papers are due June 12, 2009.

We write to respectfully request the Court's permission (i) to file Mr. Johnson's opposition papers under seal, pursuant to the Confidentiality Stipulation and Protective Order entered into by the parties on June 11, 2009 and (ii) to file a memorandum of law in opposition to IBM's motion for a preliminary injunction in excess of the page limit contained in paragraph 5(C) of Your Honor's Individual Rules of Practice. To adequately address the relevant arguments and defenses that have developed during expedited discovery, Mr. Johnson requests permission to file an opposition memorandum not to exceed 30 pages.

IBM has consented to both requests.



**APPLICATION GRANTED**

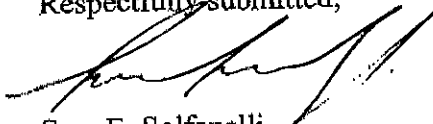
*Stephen C. Robinson*

HON. STEPHEN C. ROBINSON

6/12/09

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Respectfully submitted,



Sara E. Solfanelli

cc: Michael L. Banks  
Evan R. Chesler  
Stephen S. Madsen